

## **REMARKS**

Claims 1-9 were pending in this Application as of the Office Action mailed November 19, 2009. Claim 1 is amended with this Response. Claims 2-9 are cancelled. The Examiner's rejections will now be addressed in turn.

### Rejections under 35 U.S.C. 103(a)

Claims 1-6 are rejected under 35 U.S.C. 103(a) as allegedly being obvious over U.S. Patent No. 7,347,203 to Marler ("Marler" hereinafter), in view of U.S. Patent No. 7,077,136 to Ahlmen ("Ahlmen" hereinafter). Applicant respectfully traverses.

"To establish a *prima facie* case of obviousness, it is known that three basic criteria must be met: (1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; (2) there must be a reasonable expectation of success; and (3) the prior art reference(s) must teach or suggest all the claim limitations. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d 1016, 1023 (Fed. Cir. 1996).

"wherein the absorption body is plate-shaped and is in the active position thereof substantially perpendicular to the height, and

wherein the housing is configured such that air flows from each opening in a flow direction that is substantially parallel to a plane defined by a plate-shaped surface of the absorption body."

Neither Marler nor Ahlmen, taken alone or in combination, teach a housing that is configured such that air flows from each opening in a flow direction that is substantially

parallel to a plane defined by a plate-shaped surface of the absorption body. On the contrary, referring to Figure 3 of Marler, air flows into port 21 and out of port 25 in a direction that is perpendicular to anything that may be considered a plate surface of the absorption body 15. As Ahlmen teaches nothing that would remedy this deficiency, and is not used as such by the Examiner, Applicant respectfully asserts that the proposed combination of Marler and Ahlmen fails to teach the substantially parallel air flow from each opening that is required by Applicant's claims.

In light of the above, it is respectfully noted that Applicant's device is structurally very different from the one disclosed in Marler. Applicant's valve means is based on the principle that the position of one of the flow openings is changed to be on the same and on the opposite side, respectively of the absorption body, such that when they are on the same side the flow will by-pass the absorption body, and when they are on the opposite side the flow is forced to pass the absorption body.

The device of Marler is based on a different valve principle, wherein the inlet and outlet flow openings do not change their positions. The valve function instead is attained via a valve means that establishes a first and a second flow path, the path being located between the stationary inlet and outlet openings.

Further, the valve function according to an exemplary embodiment of Applicant's disclosure is much simpler, and more reliable, since it merely requires a switching of the position of the inlet or outlet to the other side of the absorption body. The risk for mistake or malfunction is very low. A valve mechanism according to Marler has to be very precisely manufactured in order to obtain matching openings that are to overlap each other. There might also be a risk that leakage to the shut-off flow path will occur due to non-precise attachment.

In Applicant's device, when the position of one of the flow openings is altered the operation mode being used is easily recognizable. In the Marler device, valve position cannot be determined in such an easy way, creating further risk of error and inaccuracy.

By employing flow direction of the inlet and outlet in relation to the plate-shaped absorption body, the dimension of the device perpendicular to the general flow path to the patient can be kept small, while maintaining a large through-flow area across the absorption body.

For at least the above reasons Applicant respectfully asserts that the proposed combination of Marler and Ahlmen fails to teach every element of Applicant's claim 1, with claims 2-9 having been cancelled. Accordingly, for at least the reasons set forth herein, Applicant respectfully submits that none of claim 1 is obvious over the proposed combination of Marler and Ahlmen.

Claims 7 and 9 are rejected under 35 U.S.C. 103(a) as allegedly being obvious over Marler, in view of Ahlmen, U.S. Publication No. 2003/0089116 to Heron ("Heron" hereinafter), and U.S. Patent No. 4,930,498 to Hayek ("Hayek" hereinafter). Applicant respectfully notes that claims 7 and 9 have been cancelled.

Claim 8 is rejected under 35 U.S.C. 103(a) as allegedly being obvious over Marler, in view of Ahlmen, Heron, Hayek and U.S. Patent No. 4,532,961 to Walton ("Walton" hereinafter). Applicant respectfully notes that claim 8 has been cancelled.

Conclusion

In light of the above remarks, the present application is believed to be in condition for allowance. Prompt issuance of Notice of Allowance is respectfully requested.

The Examiner is invited to contact Applicants' attorney at the below listed phone number regarding this response or otherwise concerning the present application.

Applicants hereby petition for any necessary extension of time required under 37 C.F.R. 1.136(a) or 1.136(b) which may be required for entry and consideration of the present Reply.

If there are any charges due with respect to this response, please charge them to Deposit Account No. 06-1130 maintained by Applicants' Attorneys.

Respectfully submitted,

CANTOR COLBURN LLP

By: /Daniel R. Gibson/  
Daniel R. Gibson  
Registration No. 56,539  
CANTOR COLBURN LLP  
20 Church Street  
22<sup>nd</sup> Floor  
Hartford, CT 06103  
Telephone: 860-286-2929  
Facsimile: 860-286-0115  
Customer No. 23413

Date: February 19, 2010